

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN E. ANDRUS MEMORIAL, INC.
(d/b/a Andrus on Hudson),

Plaintiff,

-against-

RICHARD F. DAINES, as Commissioner of the
New York State Department of Health,

Defendant.
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07 Civ. 3432 (CLB)

ORDER

SIDNEY H. STEIN, U.S. District Judge.

The Court has reviewed defendant's Order to Show Cause for Modification of Temporary Restraining Order ("TRO") and supporting memorandum of law, the declaration of Brian T. McGovern dated June 30, the accompanying memorandum of law, and heard oral argument by the parties on June 27, 2008, on the Order to Show Cause and on defendant's objections to the Report and Recommendation of Magistrate Judge Mark D. Fox issued June 25, 2008 (the "R&R"). Pursuant to Federal Rule of Civil Procedure 72 and 28 U.S.C. § 636(b)(1)(B), and after a de novo review of the R&R and full argument,

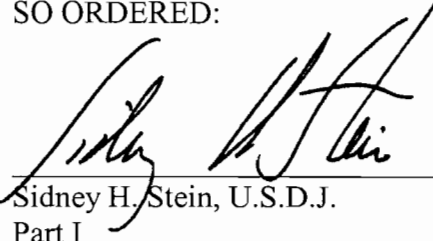
IT IS HEREBY ORDERED that:

1. Magistrate Judge Fox's Report and Recommendation dated June 25, 2008 is adopted by this Court, and

2. The Temporary Restraining Order issued by Judge Brieant on April 23, 2008, is extended until such time as a United States District Judge rules on the forthcoming R&R by Magistrate Judge Fox on plaintiff's motion for a preliminary injunction.

Dated: New York, New York
June 30, 2008

SO ORDERED:



Sidney H. Stein, U.S.D.J.
Part I